

Message Text

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ACTION DLOS-09

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TO SECSTATE WASHDC PRIORITY 4071

C O N F I D E N T I A L SECTION 1 OF 3 USUN 1935

FROM LOS DEL

E.O. 11652: GDS
TAGS: PLOS
SUBJECT: LOS SITREP JUNE 15

1. COMMITTEE I.

THE COMMITTEE WENT THROUGH ANOTHER DAY OF DESULTORY DISCUSSION WHICH UNDERSCORED A GENERAL LACK OF RESPONSIVENESS TO CHAIRMAN ENGO ON THE PART OF MOST DELEGATIONS. MEETINGS BEGAN LATE AND ENDED EARLY, PERHAPS A THIRD OF THE DELEGATIONS WERE ABSENT IN THE AFTERNOON, ENGO HAD TO COAX DELEGATIONS INTO TALKING, AND WHEN THEY DID THEY STUCK MAINLY TO GENERAL PRINCIPLES OF THE ASSEMBLY/COUNCIL MACHINERY. SOME OF THE DELEGATIONS IN THEIR INTERVENTIONS APPEARED TO BE FILLING TIME. THE COMMITTEE'S WORK WAS STALLED AS DELEGATIONS AWAITED THE RETURN OF EVENSEN, WHO IS NOW NOT EXPECTED BACK UNTIL JUNE 20.

2. ALTHOUGH ENGO HAS PROVED INEFFECTUAL IN FOCUS-
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ING THE WORK OF COMMITTEE I THIS WEEK, HIS POTENTIAL TO EXERT A DESTRUCTIVE INFLUENCE ON THE COMMITTEE CANNOT BE IGNORED, PARTICULARLY, IF HIS ANNOYANCE WITH DELEGATES' UNRESPONSIVENESS RISES TO A PERSONAL PIQUE.

3. IN THE MORNING SESSION, THE US (RICHARDSON)

SUGGESTED THE PRINCIPLES FOR INSTITUTIONAL ARRANGEMENTS. IN THE COUNCIL, HE SAID, MAJOR INTERESTS SHOULD BE REPRESENTED; VOTING SHOULD TAKE INTO ACCOUNT ALL SIGNIFICANT INTERESTS; THE SYSTEM SHOULD ENCOURAGE OTHERS TO TAKE IMPORTANT INTERESTS INTO ACCOUNT; AND THE COUNCIL SHOULD HAVE THE POWER TO TAKE EFFICIENT AFFIRMATIVE ACTION IN THE OPERATION OF THE MINING REGIME.

RICHARDSON REFERRED TO THE US WEIGHTED-VOTING PROPOSAL, ADDING THAT WHILE WE FAVOR IT, WE ARE NOT WEDDED TO IT AND ARE READY TO CONSIDER OTHER FORMULATIONS. ALTHOUGH HER RESERVED DETAILED COMMENT ON THE G-77 ASSEMBLY/COUNCIL PROPOSALS INTRODUCED THE DAY BEFORE, HE NOTED CONCERN THAT THEY DID NOT SATISFY THE PRINCIPLES HE HAD LAID OUT EARLIER. LATER THE US CIRCULATED ITS DRAFT ARTICLE 27 ON THE COUNCIL.

4. THE UK (LOGAN) OUTLINED A CHAMBERED VOTING ARRANGEMENT. THE 36 MEMBER COUNCIL COULD COMPRIZE SEVERAL CHAMBERS -- FOR EXAMPLE, INDUSTRIAL COUNTRIES, MINERAL PRODUCERS, CONSUMERS, DEVELOPING COUNTRIES. IMPORTANT DECISIONS COULD REQUIRE SEPARATE MAJORITIES WITHIN SEVERAL CHAMBERS. THE FRG SAID IT COULD SUPPORT THE UK IDEA THOUGH IT ALSO REMAINS OPEN ON WEIGHTED VOTING.

5. COLOMBIA REJECTED THE WEIGHTED VOTING IDEA AND ALSO WARNED AGAINST OTHER FORMULAS WHICH PROVIDE A "CONCEALED VETO," A PROBABLE REFERENCE TO THE CHAMBERED VOTING CONCEPT. SINGAPORE (KOH) ALSO FOUND WEIGHTED VOTING "DIFFICULT TO ACCEPT",
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BUT ACKNOWLEDGED THAT A CHAMBERED VOTING ARRANGEMENT MIGHT BE ACCEPTABLE.

6. COMMITTEE III.
PROTECTION AND PRESERVATION OF MARINE ENVIRONMENT DISCUSSION BEGAN WITH ARTICLE 30, PARAGRAPHS 1 AND 2 ENFORCEMENT IN PART FOR REDUCTIONS WITHIN 200 MILES AND DIRECT ENFORCEMENT IN THE TERRITORIAL SEA. FRG AND USSR AGREED THAT ALL ENFORCEMENT SHOULD RELATE ONLY TO DISCHARGE VIOLATIONS. THOSE OPPOSED ARGUED THAT LIMITING ENFORCEMENT ACTIONS UNDER 30(1) TO DISCHARGE VIOLATIONS WOULD DETRACT FROM COASTAL STATE STANDARD SETTING COMPETENCE IN THE TERRITORIAL SEA AND ECONOMIC ZONE GRANTED IN ARTICLES 21(3) AND (4). CANADA AND OTHER STATED THAT THE EXTENT OF COASTAL STATE STANDARD-SETTING COMPETENCE IN THE TERRITORIAL SEA WAS STILL AN OPEN QUESTION. VALLARTA AGREED TO CONVENE A SMALL GROUP ON ART 30(1).

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TO SECSTATE WASHDC PRIORITY 4072

C O N F I D E N T I A L SECTION 2 OF 3 USUN 1935

FROM LOS DEL

7. MARINE SCIENTIFIC RESEARCH:

CHAIRMAN YANKOV ENDED A LONG PROCEDURAL DEBATE BY BEGINNING DISCUSSION OF THE REGIME FOR THE CONDUCT OF MARINE SCIENTIFIC RESEARCH (ART 60). DISCUSSION ON ART 30(2) CENTERED ON A CANADIAN PROPOSAL TO DELETE THE PHRASE "WITHOUT PREJUDICE TO THE RIGHT OF INNOCENT PASSAGE." THOSE WHO SUPPORTED DELETION OF THE PHRASE (16 MOSTLY DEVELOPING STATES BUT ALSO USA AND NEW ZEALAND) FELT IT LIMITED COASTAL STATE RIGHT TO INSPECT AND ARREST VESSELS FOR POLLUTION VIOLATIONS. THOSE OPPOSING THE CANADIANS AMENDMENT (6 STATES--MOSTLY MARITIME LED BY THE USSR AND FRANCE) SAID THE PHRASE MADE CLEAR THAT COASTAL STATES COULD INSPECT AND ARREST VESSELS WITHOUT INFRINGING ON THE RIGHT OF INNOCENT PASSAGE. VALLARTA WILL DISCUSS THE CANADIAN AMENDMENT IN A SMALL NEGOTIATING GROUP BUT ALLOWING DISCUSSION OF OTHER "PERTINENT" ARTICLES SUCH AS 58, 59, 64, 65, AND 76. (NOTIFICATION,

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OBLIGATIONS, TACIT CONSENT, DISPUTE SETTLEMENT).

8. BRAZIL, PERU ET AL SUGGESTED THAT DISCUSSIONS CENTER ON THE YANKOV TEST PROPOSAL OF LAST YEAR FOR ART 60 RATHER THAN ON THE RSNT. YANKOV ATTEMPTED TO GIVE THIS PROPOSAL GREATER STATUS BY STATING THAT IT WAS A "SYNTHESIS" OF THE VARIOUS PROPOSALS SUBMITTED LAST SESSION AND THAT IT WOULD BE A SETBACK TO MERELY GO BACK TO THE RSNT. UNDER PRESSURE FROM THE USA AND OTHERS YANKOV STATED THAT RSNT IS STILL THE BASIS OF NEGOTIATIONS AND THAT ALL OTHER PROPOSALS WOULD BE TREATED ON AN EQUAL BASIS BUT INSISTED THAT HIS PROPOSAL SHOULD BE CONSIDERED AS HAVING A CHARACTER DIFFERENT FROM ANY PROPOSAL BY AN INDIVIDUAL COUNTRY.

9. USSR (KOZYREV) STATED THAT IT HAD CHANGED ITS POSITION ON MARINE SCIENTIFIC RESEARCH IN ORDER TO SUPPORT THE DEVELOPING COUNTRIES. HE STATED THAT ALL MARINE SCIENTIFIC SHOULD REQUIRE COASTAL STATE CONSENT AND SUGGESTED DELETION OF THE SECOND PARAGRAPH OF ART 60. HE ALSO PROPOSED DELETION OF THE SETTLEMENT OF DISPUTES ARTICLE (76) IN PART III LEAVING COMPULSORY DISPUTE SETTLEMENT REGARDING MARINE SCIENTIFIC RESEARCH TO BE COVERED BY PART IV. IF ART 76 REMAINS, HE SAID, IT SHOULD BE AMENDED TO APPLY ONLY TO THE ACTUAL CONDUCT OF MARINE SCIENTIFIC RESEARCH RATHER THAN TO WHETHER MARINE SCIENTIFIC RESEARCH COULD BE CONDUCTED. LATER, USSR STATED IT DID NOT WANT DISPUTE SETTLEMENT TO APPLY TO THE QUESTION OF GRANTING OR DENYING CONSENT.

10. THE USA (LEITZELL) MADE CLEAR THAT AN ACCEPTABLE COMPROMISE ON MARINE SCIENTIFIC RESEARCH HAD NOT BEEN REACHED AND THAT IT REMAINS ONE OF THE MOST IMPORTANT LOS ISSUES TO THE USA. THE US RE-
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ITERATED ITS POSITION THAT THE COASTAL STATE COULD REQUIRE CONSENT FOR MARINE SCIENTIFIC RESEARCH DIRECTLY RELATED TO THE RESOURCES OF THE EZ OR CONTINENTAL SHELF INVOLVING DRILLING, EXPLOSIVES, OR CERTAIN INSTALLATIONS BUT THAT THE TOTAL DISCRETIONARY CONSENT SET FORTH IN THE RSNT REGIME WAS UNACCEPTABLE. THE YANKOV TEST PROPOSAL IS UNACCEPTABLE AND COULD NOT SERVE AS A BASIS FOR FURTHER NEGOTIATION. US OUTLINED OTHER AMENDMENTS TO ART 64, 75 AND THE NECESSITY OF RETAINING ART 76 ON SETTLEMENT OF DISPUTES.

11. BRAZIL SUPPORTED THE USSR PROPOSAL TO DELETE THE 2ND PARA OF ART 60. THEY ALSO PROPOSED TO ADD "EXPRESS AND PRIOR" BEFORE "CONSENT" AND TO DELETE "IN ACCORDANCE WITH THIS CONVENTION" IN 60 (1). THEY ALSO PROPOSED TO DELATE ART 64 AND 76.

12. REPUBLIC OF KOREA, KENYA, ECUADOR, GAMBIA, PAKISTAN, CUBA, YUGOSLAVIA, GHANA, GUATEMALA, INDIA, MONGOLIA, COLOMBIA, SOMALIA, PHILIPPINES AND PORTUGAL SUPPORTED A CONSENT REGIME WITH MANY SUPPORTING EITHER THE CHAIRMAN'S TEST PROPOSAL OR THE USSR PROPOSAL. FAVORING A POSITION CLOSER TO THE US, FRG, NETHERLANDS, ITALY WHICH FRANCE, IRELAND AND JAPAN ESSENTIALLY SUPPORTED THE RSNT. SPECIFIC AMENDMENTS PROLIFERATED REDUCING PROSPECTS FOR ACHIEVING A COMPROMISE IN THE INFORMAL MEETINGS OF THE COMMITTEE.

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FROM LOS DEL

13. COMMITTEE II.
THE DELIBERATIONS OF CONSULTATIVE GROUP II (DEFINITION OF THE OUTER LIMIT OF THE CONTINENTAL SHELF AND REVENUE SHARING BEYOND 200 MILES) BEGAN THIS MORNING, CHAIRED BY NJENGA (KENYA). THE FIRST MEETING WAS CHARACTERIZED BY A RECAPITULATION OF WELL-KNOWN VIEWS. THUS, AUSTRIA OFFERED

NEW AMENDMENTS TO ARTICLES 65 AND 71. AUSTRIA'S NEW PROPOSED ARTICLE 65 BIS PROVIDES THAT COASTAL STATES "SHALL ENDEAVOR TO PROVIDE FOR THE POSSIBILITY OF PARTICIPATION BY LL/GDS OF THE SAME REGION OR SUBREGION IN THE EXPLORATION AND EXPLOITATION OF THE NATURAL RESOURCES OF THE CONTINENTAL SHELF." AUSTRIA'S CONTENTION THAT THIS PROPOSED ARTICLE "CREATED NO LEGALLY BINDING OBLIGATIONS ON COASTAL STATES" WAS VIGOROUSLY COUNTERED BY ARGENTINA AND OTHER BROAD MARGINEERS. AUSTRIA'S PROPOSED ARTICLE 70(2) WOULD REDUCE THE GRACE PERIOD FOR REVENUE SHARING FROM THE CONTINENTAL SHELF BEYOND CONFIDENTIAL

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200 MILES FROM FIVE TO THREE YEARS AND WOULD INTRODUCE AN ANNUAL SLIDING SCALE OF 1 PERCENT UP TO A TOTAL OF 7 PERCENT ROYALTY. SINGAPORE CRITICIZED THE AUSTRIAN PROPOSAL AS TOO GENEROUS TO COSTAL STATES AND PROPOSED A GRACE PERIOD OF TWO YEARS AND A SLIDING SCALE CONTRIBUTION BASED UPON A 3 PERCENT INCREMENTS UP TO A TOTAL 15 PERCENT AFTER SEVEN YARS. ARGENTINA CRITICIZED THE PROPOSALS OF BOTH AUSTRIA AND SINGAPORE AND ENUMERATED THE STANDARD ARGUMENTS FOR DEVELOPING COUNTRY EXEMPTION FROM REVENUE SHARING. THE SOVIET UNION, SUPPORTED BY COLOMBIA, REINTRODUCED ITS 500 METER DEPTH CRITERION TO DEFINE THE OUTER BOUNDARY. THE IRISH FORMULA OF DELIMITATION (SEDIMENT THICKNESS) WAS REINTRODUCED AND WAS SUPPORTED BY A HOST OF THE BROAD MARGINEERS. CANADA, ARGENTINA, THE UK, BRAZIL, AND AUSTRALIA. JAPAN CRITICIZED THE IRISH FORMULA AS BEING "LIABLE TO CONSIDERABLE INACCURACY." AND FAVORED A DISTANCE CRITERION.

14. THE PROCEEDINGS OF CONSULTATIVE GROUP III (CG-III- DELIMITATION BETWEEN OPPOSITE AND ADJACENT STATES) WERE CONVENED IN THE AFTERNOON BY THE CHAIRMAN (JACHEK). TURKEY PROPOSED, SUBSTITUTING THE LANGUAGE AND PRINCIPLES OF ARTICLES 62 AND 71 (EQUITABLE PRINCIPLES/ RELEVANT CIRCUMSTANCES)- FOR THOSE OF ARTICLE 14 (MEDIAN LINE/ EQUIDISTANCE). THIS PROPOSAL WHICH WAS INITIALLY INTRODUCED BY ROMANIA DURING THE FOURTH SESSION IMMEDIATELY PRECIPITATED A SUBSTANTIVE DEBATE ON THE RESPECTIVE MERITS OF EMPLOYING ONE OR THE OTHER OF THOSE PRINCIPLES GOVERNING DELIMITATION IN ALL THREE MARITIME ZONES.

15. FOR THE PRINCIPLE OF EQUITY/RELEVANT CIRCUMSTATNCS:
(1) TURKEY, (2) VENEZUELA, (3) LIBYA, (4) IRAQ, (5) IRELAND, (6) REPUBLIC OF KOREA (POSITION CONFUSED), (7) FRANCE,

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(8) ARGENTINA, (9) BELGIUM, AND (10) ALGERIA.

16. FOR THE PRINCIPLE OF EQUIDISTANCE/MEDIAN LINE:
(1) UK, (2) CANADA, (3) SPAIN, (4) COLOMBIA,
(5) CHILE, (6) DENMARK, (7) IRAN (VAGUE ON EEZ AND
CONTINENTAL SHELF), (8) MALTA, (9) CYPRUS, (10) SWEDEN,
(11) ITALY, (12) GREECE.

17 ALGERIA'S INTERVENTION (SUPPORTED BY IRELAND)
INCLUDED A PROPOSAL TO AMEND ARTICLES 62(1) AND
72(1) BY STRIKING FROM THESE TWO ARTICLES ALL
REFERENCES TO THE MEDIAN/EQUIDISTANCE LINE PRINCIPLE.
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